

United States District Court

United States Court
Southern District of Texas
FILED

MAR 27 2009

SOUTHERN

DISTRICT OF

TE Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA
V.

RODRIGUEZ, Roberto

CRIMINAL COMPLAINT

CASE NUMBER: C-09-275M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or March 26, 2009 in Brooks County, in the

Southern District of Texas defendant(s) did, (Track Statutory Language of Offense)

knowingly, intentionally, and unlawfully possess with the intent to distribute a controlled substance in Schedule I of the Controlled Substances Act of 1970, to wit; approximatley 707 kilograms of marijuana, gross weight.

in violation of Title 21 United States Code, 841 (a) (1)

I further state that I am a(n) DEA Special Agent and that this complaint is based on the following
Official Title

facts:

SEE ATTACHMENT "A"
(2 pages)

Continued on the attached sheet and made a part

☒ Yes ☐ No

Special Agent Randy Ballma
Signature of Complainant

Sworn to before me, and subscribed in my presence,

March 26, 2009
Date

at Corpus Christi, Texas
City and State

B. Janice Ellington, U.S. Magistrate Judge
Name and Title of Judicial Officer

Signature of Judicial

ATTACHMENT A (2 Pages)

RODRIGUEZ, Roberto

On March 26, 2009, U.S. Border Patrol Agent (BPA) Jeffrey Havicon was assigned checkpoint duties at the United States Border Patrol Checkpoint, located approximately 13 miles south of Falfurrias, Texas. At approximately 9:00 a.m., a red tractor-trailer approached the primary lane of inspection. BPA Havicon asked the driver, later identified as Roberto RODRIGUEZ, if he was a United States Citizen and he stated "No," and presented a valid Permanent Resident Card. As RODRIGUEZ presented his lawful permanent resident card, BPA Havicon noticed that the card was shaking.

As BPA Havicon was conducting the immigration inspection, BPA Ruben Garza was utilizing his service canine, Donja-A, to conduct a non-intrusive free air sniff of the exterior of the truck and trailer. BPA Havicon then asked RODRIGUEZ what he was hauling in the trailer and RODRIGUEZ replied "Onions." BPA Havicon then asked RODRIGUEZ where he had picked up the onions and RODRIGUEZ claimed, "Weslaco." BPA Havicon asked RODRIGUEZ if the trailer had a seal on it and RODRIGUEZ stated, "No, it has a lock." BPA Havicon asked RODRIGUEZ who put the onions inside of the trailer and RODRIGUEZ claimed that they did in Weslaco. BPA Havicon then asked RODRIGUEZ how long he had been driving with this company and RODRIGUEZ claimed, "This is my first load." At this time BPA Garza non-verbally signaled to BPA Havicon to place the vehicle in the secondary immigration inspection area. BPA Havicon then asked RODRIGUEZ if agents could search his tractor and trailer, and RODRIGUEZ stated, "Yes." RODRIGUEZ was then placed in the secondary immigration inspection area for further investigation.

Once in the secondary inspection area, RODRIGUEZ was asked to open the lock on the trailer door. RODRIGUEZ opened the door and stood to the side with BPA Havicon, while BPA Garza conducted a further investigation of the interior of the trailer. BPA Havicon asked RODRIGUEZ once again how long RODRIGUEZ had been driving for this company and RODRIGUEZ responded, "For about a week." BPA Havicon asked RODRIGUEZ if this was his first load and RODRIGUEZ claimed, "Yes." While BPA Havicon was talking with RODRIGUEZ, BPA Havicon noticed that RODRIGUEZ'S carotid artery was throbbing. BPA Havicon noted that through past officer experience, this is often associated with someone who is nervous. BPA Havicon asked RODRIGUEZ where he was taking the load and RODRIGUEZ stated that he was going to Atlanta, Georgia. BPA Havicon asked RODRIGUEZ when he was to arrive in Atlanta, Georgia, and RODRIGUEZ claimed, "Friday at about 8:00 P.M." BPA Garza then advised BPA Havicon that drugs were found. BPA Havicon then placed RODRIGUEZ under arrest and escorted him inside the checkpoint. BPA Garza removed 83 bundles of marijuana, wrapped in either clear cellophane or green cellophane, from the trailer weighing a total of approximately 707 kilograms.

As BPA Havicon was escorting RODRIGUEZ inside the checkpoint, it seemed as if RODRIGUEZ was drastically acting surprised as to why he was under arrest. Once inside of the checkpoint, BPA Havicon read RODRIGUEZ his Miranda Rights as witnessed by BPA Garza. RODRIGUEZ initialed that he understood his rights and signed that he was willing to talk without the presence of a lawyer.

RODRIGUEZ was once again questioned where he picked up the load and RODRIGUEZ stated in Weslaco. BPA Garza asked RODRIGUEZ if he put the lock on the trailer and RODRIGUEZ claimed, "Yes." BPA Garza asked RODRIGUEZ if he checked the load before RODRIGUEZ put the lock on it, and RODRIGUEZ claimed that he looked at the load, but did not go inside the trailer to check the load. BPA Havicon asked RODRIGUEZ what time the truck was loaded, and RODRIGUEZ claimed it was loaded the previous day (3/25/09), at approximately 8:00 P.M (BPA Havicon noted that this is not the time nor the date documented in the driver's log book). BPA Havicon once again asked RODRIGUEZ where he loaded the trailer and RODRIGUEZ claimed Weslaco. BPA Havicon asked RODRIGUEZ what company loaded the trailer and RODRIGUEZ stated, "I don't know."

At a later time, RODRIGUEZ asked what was going to happen to the tractor and BPA Havicon stated that it was more than likely going to be seized. BPA Havicon asked RODRIGUEZ if it was RODRIGUEZ'S tractor and RODRIGUEZ claimed, "Yes." BPA Havicon asked RODRIGUEZ how long had he owned the tractor and RODRIGUEZ claimed, "For about 2 years" (This was also contrary to what RODRIGUEZ stated earlier, that RODRIGUEZ had only been with this company for a week). BPA Havicon asked RODRIGUEZ who owned the trailer, and RODRIGUEZ claimed, "It's mine and another person." BPA Havicon asked RODRIGUEZ how long he had owned the trailer, and he claimed, "I've had it for about 8 or 10 months."

On March 26, 2009, SA Randy Ballman and TFO Duane Pacheco responded to the Falfurrias, Texas, U.S. Border Patrol Checkpoint and assumed the investigation. TFO Duane Pacheco read RODRIGUEZ his Miranda Warnings in the Spanish language as RODRIGUEZ requested., as witnessed by S/A Ballman. RODRIGUEZ acknowledged in writing that he understood his rights, but refused to answer questions at that time.

AUSA Ken Cusick authorized the federal prosecution of Roberto RODRIGUEZ on March 26, 2009.

The amount of marijuana seized infers intent to distribute.